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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,239	07/18/2005	Peter John Sadler	14084-005US1 / RJW/CP6263	5058
23575 7590 04/30/2008 CURATOLO SIDOTI CO., LPA 24500 CENTER RIDGE ROAD, SUITE 280 CLEVELAND, OH 44145			EXAMINER GALLIS, DAVID E	
			ART UNIT 1625	PAPER NUMBER
			MAIL DATE 04/30/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/520,239	<b>Applicant(s)</b> SADLER ET AL.	
	<b>Examiner</b> DAVID E. GALLIS	<b>Art Unit</b> 1625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 16-35 is/are pending in the application.
- 4a) Of the above claim(s) 16-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Claims 16 through 35 are pending. Claims 1 through 15 have been cancelled. Claims 16 through 25 have been withdrawn. Claims 26 through 35 have been amended. Applicant's claim to the benefit of GB 0215526.5, filed on July 5 2002, is acknowledged. Applicant's amendments and arguments filed January 10, 2008 have been entered and carefully considered.

### ***Election/Restrictions***

2. Applicant's election with traverse of Group II is acknowledged, however the examiner does not find the argument for rejoining claims 16 through 25 persuasive. Examiner has reviewed the structure presented by Carmona et al., and finds that the core structure of claims 16 through 25 constituting the phenyl and bidentate ligand complex is known, and thereby, can not serve as a special technical feature. A technical feature linking the inventions of Groups I and II does not constitute a special feature as it does not define a contribution over prior art. Since Groups I and II are not linked by the same or a corresponding special technical feature as to form a general inventive concept, the restriction is maintained as FINAL. Based on the species election, the scope of examination reading on the elected species are claims 30 formula II-IX, or claim 31 XI-XV, or claim 32 wherein both T and T' are oxygen. Claims 26-29, 33-35 reading on the elected scope have be examined. Claims 16-25 and the remaining non-elected subject matter of claims 26-35 are withdrawn from consideration per 37 CFR 1.142(b).

***Claim Rejections***

3. With regard to the rejection of claim 26 as indefinite with the use of the term “subject”, Applicant has amended the claim to include the language “subject in need of treatment”. Therefore, the rejection of claim 26 on the ground of 35 U.S.C. 112 second paragraph based on the use of the indefinite term “subject” is hereby withdrawn.

4. With regard to the rejection of claims 26 through 35 as not enabling for “preventing” of cancer, Applicant has amended the claim 26 to eliminate the term “preventing”. Therefore, The rejection of claims 26 through 35 on the ground of 35 U.S.C. 112 first paragraph based on non-enablement for the prevention of cancer is hereby withdrawn.

5. With regard to the rejection of claims 26 through 35 as not enabling for the treatment of ovarian adenocarcinoma with all claimed ligand types of formula (I), the examiner has found Applicant’s argument persuasive. Therefore, the rejection of claims 26 through 35 on the ground of 35 U.S.C. 112 first paragraph based on non-enablement for the treatment of ovarian adenocarcinoma with all claimed ligand types of formula (I) is hereby withdrawn.

6. With regard to the rejection of claim 26 through 35 as not enabling for the treatment of cancers other than ovarian adenocarcinoma, the examiner has not found Applicant’s argument to be persuasive for reasons of record. Therefore, the rejection of claim 26 on the ground of 35 U.S.C. 112 first paragraph based on non-enablement for the treatment of cancers other than ovarian adenocarcinoma is maintained.

Art Unit: 1625

7. With regard to the rejection of claim 26 as indefinite with the use of the indefinite article a, the examiner does not find the argument persuasive. It is unclear in what context the Federal Circuit construed its meaning, but in the scientific context of counter ion chemistry units of charge are important to the interpretation of structure. The examiner suggests that the phrasing be “bearing one or more negative charge units” (actually “bearing negative charge” would be more consistent with the listed *m* values than “a negative charge”). The rejection of claim 26 on the ground of 35 U.S.C. 112 second paragraph is maintained.

8. With regard to the rejection of claim 30 (and 31) as indefinite with the use of the indefinite article a, the examiner does not find the argument persuasive. It is unclear in what context the Federal Circuit construed the meaning of *a*, but in the scientific context of counter ion chemistry units of charge are important to the interpretation of structure. Also, one skilled in the art of coordination chemistry is not likely to make structural and electronic interpretations based on Federal Court opinions. Clarification of charge requirements is required. The rejection of claim 30 (and 31) on the ground of 35 U.S.C. 112 second paragraph is maintained.

9. With regard to the rejection of claims 26 through 35 as indefinite with respect to the bidentate ligand charge, the Examiner does not find the argument persuasive. Clarification of charge requirements is required as discussed for the rejection of claims 26, 30, and 31 above. The rejection of claims 26 through 35 on the ground of 35 U.S.C. 112 second paragraph is maintained.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. Gallis whose telephone number is 571-272-9068. The examiner can normally be reached on Mon-Thur 8:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Andres can be reached on 571-272-1600. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

Art Unit: 1625

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

David E. Gallis  
Patent Examiner

/ Bernard Dentz/

Primary Examiner, Art Unit 1625